

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	Criminal No. 08-CR-10223-PBS
v.)	
)	Criminal No. 09-CR-10262-PBS
ALBERT GONZALEZ)	
)	Criminal No. 09-CR-10382-DPW
Defendant.)	

REQUEST FOR GUIDANCE FROM THE COURT
WITH RESPECT TO THE SENTENCING HEARING

Defendant Albert Gonzalez has placed in issue in his Sentencing Memorandum in Criminal Nos. 08-CR-10223-PBS and 09-CR-10262-PBS whether he committed his offenses while suffering from a diminished mental capacity within the meaning of U.S.S.G. §5K2.13. The government is submitting this Request for Guidance to determine whether the Court would like to hear testimony on this issue at the time of sentencing.

The defendant has been examined separately by forensic experts retained by Gonzalez and the government. Their reports are attached to the sentencing memoranda submitted by the parties.

Neither party has asked for a hearing on this issue and neither believes a hearing is necessary. *See* Defendant Albert Gonzalez' Response to Amended Procedural Order Re: Sentencing Hearing in Criminal Nos. 08-CR-10223 and 09-CR-10262, ¶3. However, defense counsel has informed the government that he intends to have his psychiatric forensic expert in the courtroom should the Court wish to ask him any questions.

To avoid a considerable and potentially unnecessary expense for both parties, the government seeks clarification of whether the Court would like both experts present in the

Courtroom at the time of sentencing and available for an evidentiary hearing.

Respectfully submitted,

CARMEN M. ORTIZ
United States Attorney

By: /s/ Stephen P. Heymann
STEPHEN P. HEYMANN
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Stephen P. Heymann
STEPHEN P. HEYMANN
Assistant U.S. Attorney

Date: March 19, 2010